



MORAY LOCAL REVIEW BODY

24 FEBRUARY 2022

SUMMARY OF INFORMATION FOR CASE No LR268

Planning Application 21/01153/APP – Carport with Balcony at 20 Elmfield Road, Elgin, IV30 6HQ

Ward 7 – Elgin City South

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 1 October 2021 on the grounds that:

The proposed carport and balcony are contrary to Moray Local Development Plan 2020 policy DP1 for the following reasons:-

1. The balcony would give rise to any unacceptable loss of privacy and overlooking to the neighbouring property to the south-west of the site.
2. The balcony would be out of keeping with the scale and character of the existing dwellinghouse and surrounding area.

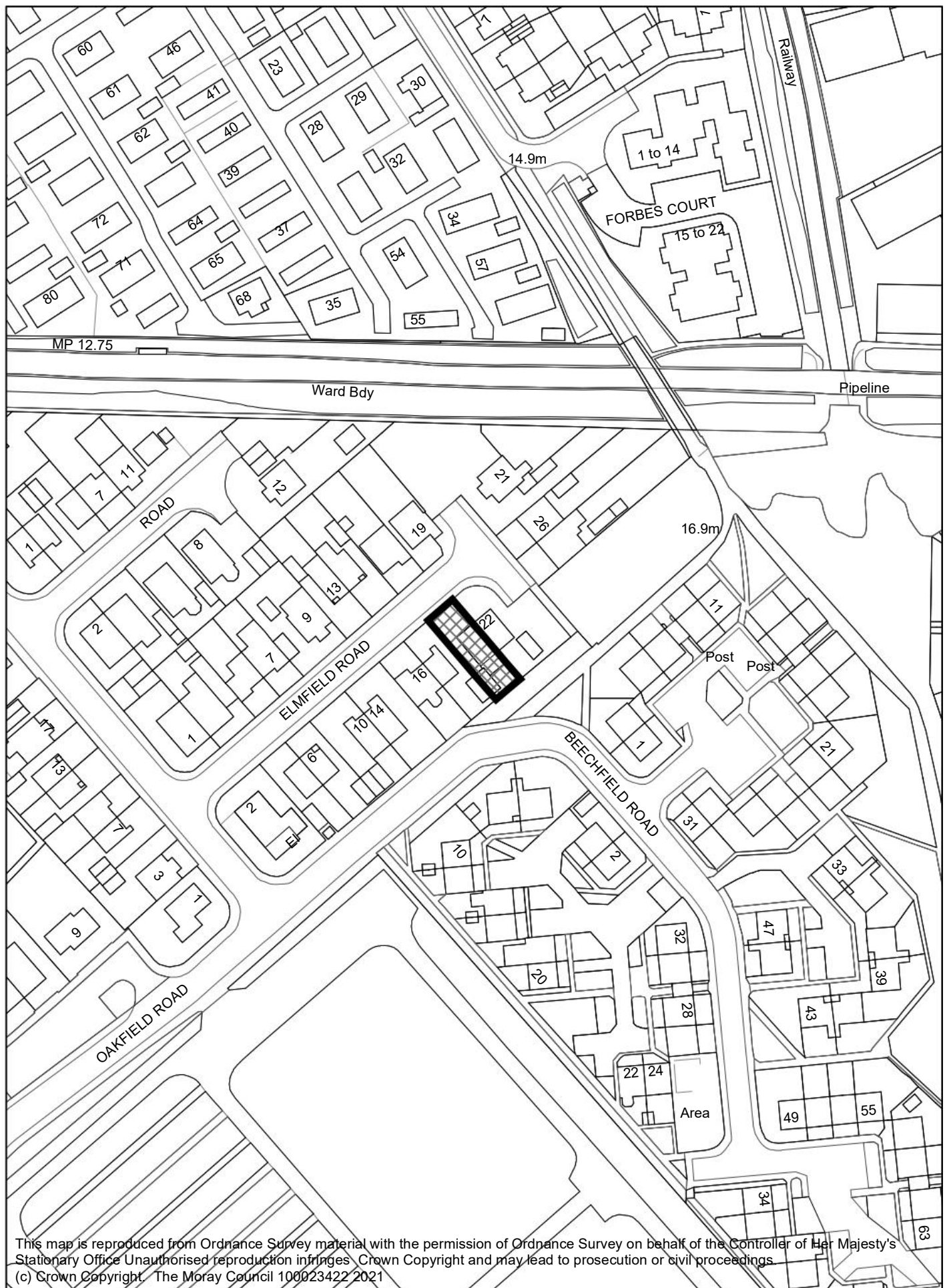
Documents considered or prepared by the Appointed Officer in respect of the above planning application are attached as **Appendix 1**.

The Notice of the Review, Grounds for Review and any supporting documents submitted by the Applicant are attached as **Appendix 2**.

No Further Representations were received in response to the Notice of Review.



Location plan for Planning Application Reference Number : 21/01153/APP





APPENDIX 1

DOCUMENTS CONSIDERED OR PREPARED BY THE APPOINTED OFFICER



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 0300 1234561 Email: development.control@moray.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100447687-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- ☒ Application for planning permission (including changes of use and surface mineral working).
- ☐ Application for planning permission in principle.
- ☐ Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Erect carport in driveway and balcony area above.

Is this a temporary permission? * ☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) * ☐ Yes ☒ No

Has the work already been started and/or completed? *

☐ No ☒ Yes – Started ☐ Yes - Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): *

18/05/2021

Please explain why work has taken place in advance of making this application: * (Max 500 characters)

I was not aware planning permission would be required for this works.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☒ Applicant ☐ Agent

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="Donnie"/>	Building Number: <input type="text" value="20"/>
Last Name: *	<input type="text" value="McLennan"/>	Address 1 (Street): * <input type="text" value="ELMFIELD ROAD"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: * <input type="text" value="ELGIN"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="SCOTLAND"/>
Mobile Number:	<input type="text" value=""/>	Postcode: * <input type="text" value="IV30 6HQ"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value=""/>	

Site Address Details

Planning Authority:	<input type="text" value="Moray Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="20 ELMFIELD ROAD"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ELGIN"/>
Post Code:	<input type="text" value="IV30 6HQ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="862100"/>	Easting	<input type="text" value="322782"/>
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Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☒ Yes ☐ No

Pre-Application Discussion Details Cont.

In what format was the feedback given? *

☐ Meeting ☒ Telephone ☒ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (max 500 characters)

Craig Wilson, Planning Officer visited the site and advised that the development is unauthorised and requires planning consent. I have discussed this over the telephone with Mr Wilson and have advised that we are happy to go ahead and seek planning permission.

Title:

Mr

Other title:

First Name:

Craig

Last Name:

Wilson

Correspondence Reference Number:

21/00209/ENF

Date (dd/mm/yyyy):

19/07/2021

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

15.00

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Driveway

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

☐ Yes ☒ No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? *

☐ Yes ☒ No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?	<div style="border: 1px solid black; width: 100px; height: 20px; margin: 0 auto; display: flex; align-items: center; justify-content: center;">2</div>
How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *	<div style="border: 1px solid black; width: 100px; height: 20px; margin: 0 auto; display: flex; align-items: center; justify-content: center;">2</div>
Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).	

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? * ≤ Yes **T** No

Do your proposals make provision for sustainable drainage of surface water?? * **T** Yes ≤ No
 (e.g. SUDS arrangements) *

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

≤ Yes

≤ No, using a private water supply

T No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? * ≤ Yes **T** No ≤ Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? * ≤ Yes **T** No ≤ Don't Know

Trees

Are there any trees on or adjacent to the application site? * ≤ Yes **T** No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * ≤ Yes **T** No

If Yes or No, please provide further details: * (Max 500 characters)

There is a dedicated area for refuse/recycling on the property.

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? * ≤ Yes **T** No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

☐ Yes ☒ No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 *

☐ Yes ☒ No ☐ Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

☐ Yes ☒ No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

☒ Yes ☐ No

Is any of the land part of an agricultural holding? *

☐ Yes ☒ No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Mr Donnie McLennan

On behalf of:

Date: 23/07/2021

☒ Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

☐ Yes ☐ No ☐ T Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

☐ Yes ☐ No ☐ T Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

☐ Yes ☐ No ☐ T Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

☐ Yes ☐ No ☐ T Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

☐ Yes ☐ No ☐ T Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

☐ Yes ☐ No ☐ T Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

☐ Site Layout Plan or Block plan.

☐ Elevations.

☐ Floor plans.

☐ Cross sections.

☐ Roof plan.

☐ Master Plan/Framework Plan.

☐ Landscape plan.

☐ Photographs and/or photomontages.

☐ Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *	≤	Yes	T	N/A
A Design Statement or Design and Access Statement. *	≤	Yes	T	N/A
A Flood Risk Assessment. *	≤	Yes	T	N/A
A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *	≤	Yes	T	N/A
Drainage/SUDS layout. *	≤	Yes	T	N/A
A Transport Assessment or Travel Plan	≤	Yes	T	N/A
Contaminated Land Assessment. *	≤	Yes	T	N/A
Habitat Survey. *	≤	Yes	T	N/A
A Processing Agreement. *	≤	Yes	T	N/A

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Donnie McLennan

Declaration Date: 23/07/2021

Payment Details

Online payment: 023607

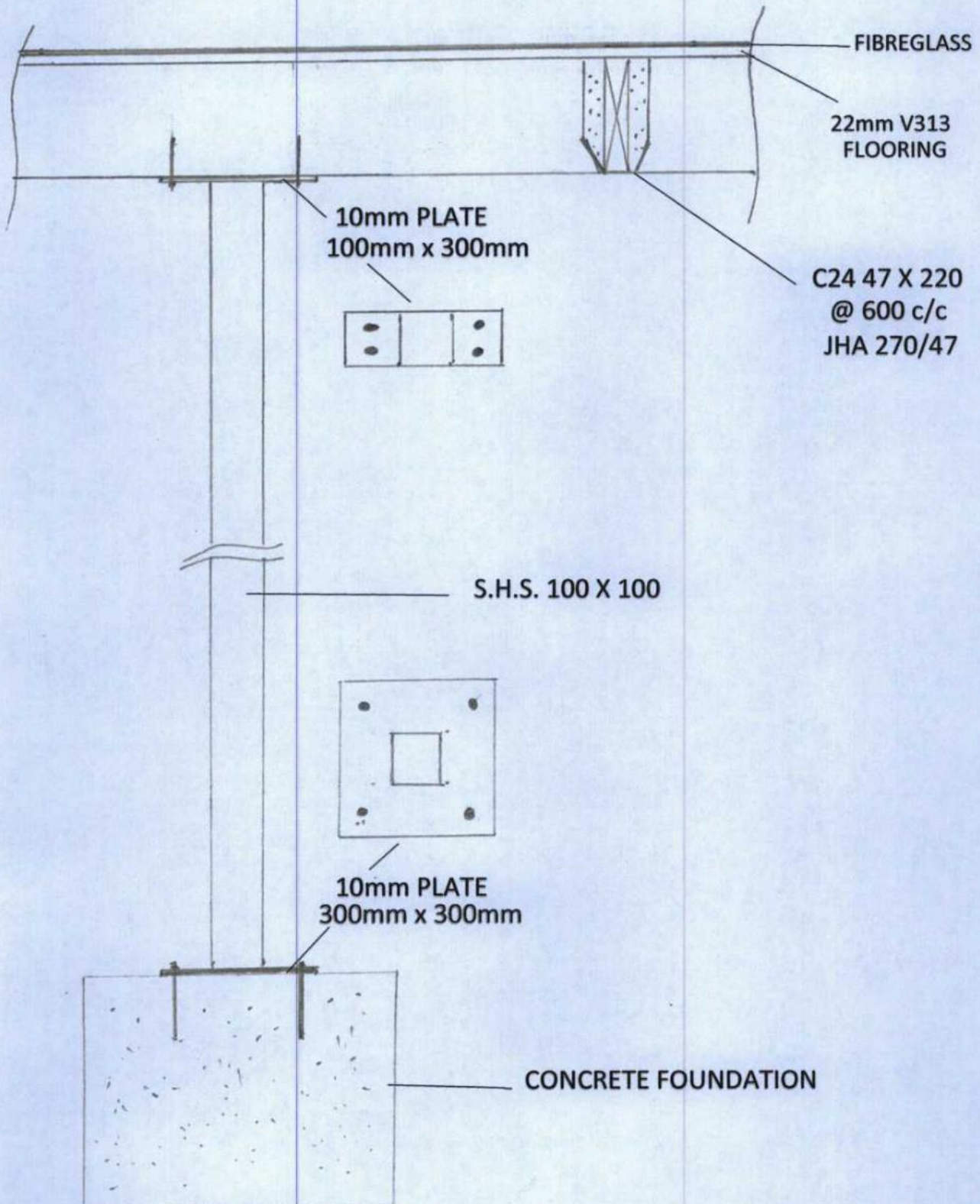
Payment date: 23/07/2021 15:15:57

Created: 23/07/2021 15:16



BLOCK PLAN
(SCALE 1:500)

PROPOSED CARPORT BALCONY
@ 20 ELMFIELD ROAD,
ELGIN, IV30 6HQ.
21 / 01153 / APP



(Scale 1:100)

Do not scale drawings

PROPOSED CARPORT BALCONY

@ 20 ELMFIELD ROAD

ELGIN, IV30 6HQ

21/01153/APP

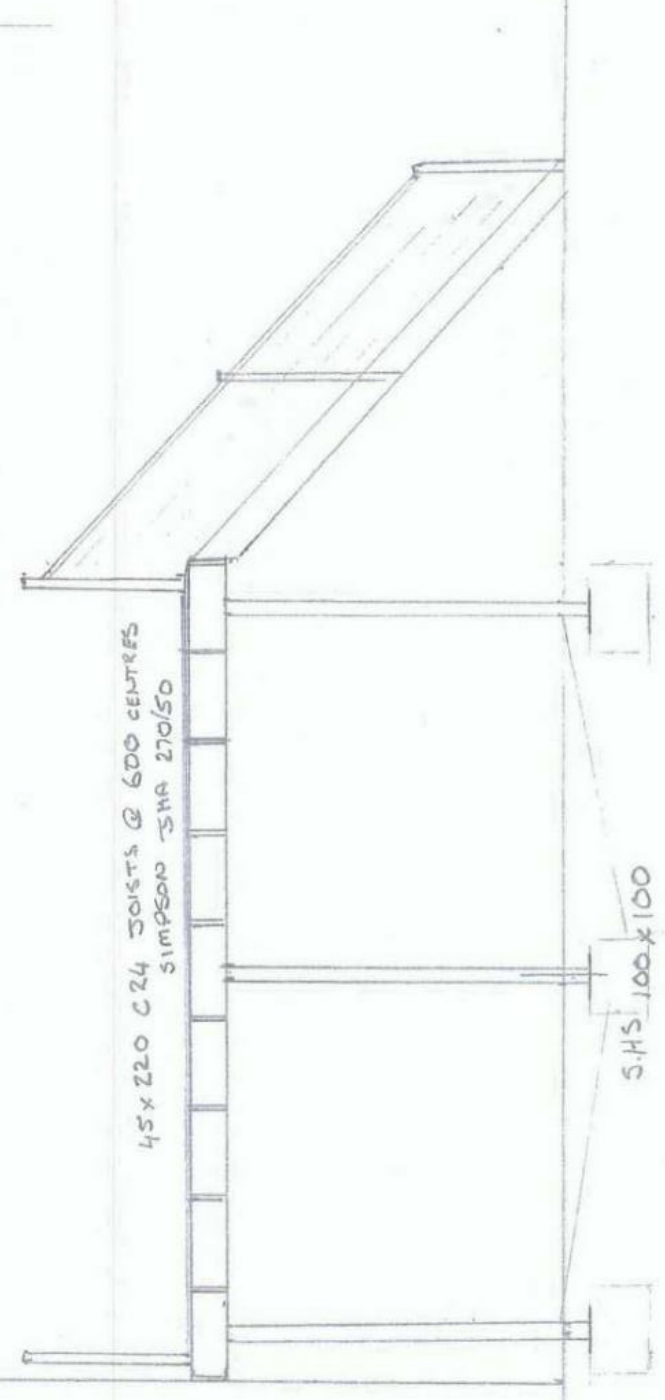
06 AUG 2021

45x220mm
C24 Full
HEIGHT
Dowels

45x220 C24 Bolts to wall

2N° 45x220 C24

FLOOR PLAN
(Scale 1:50)

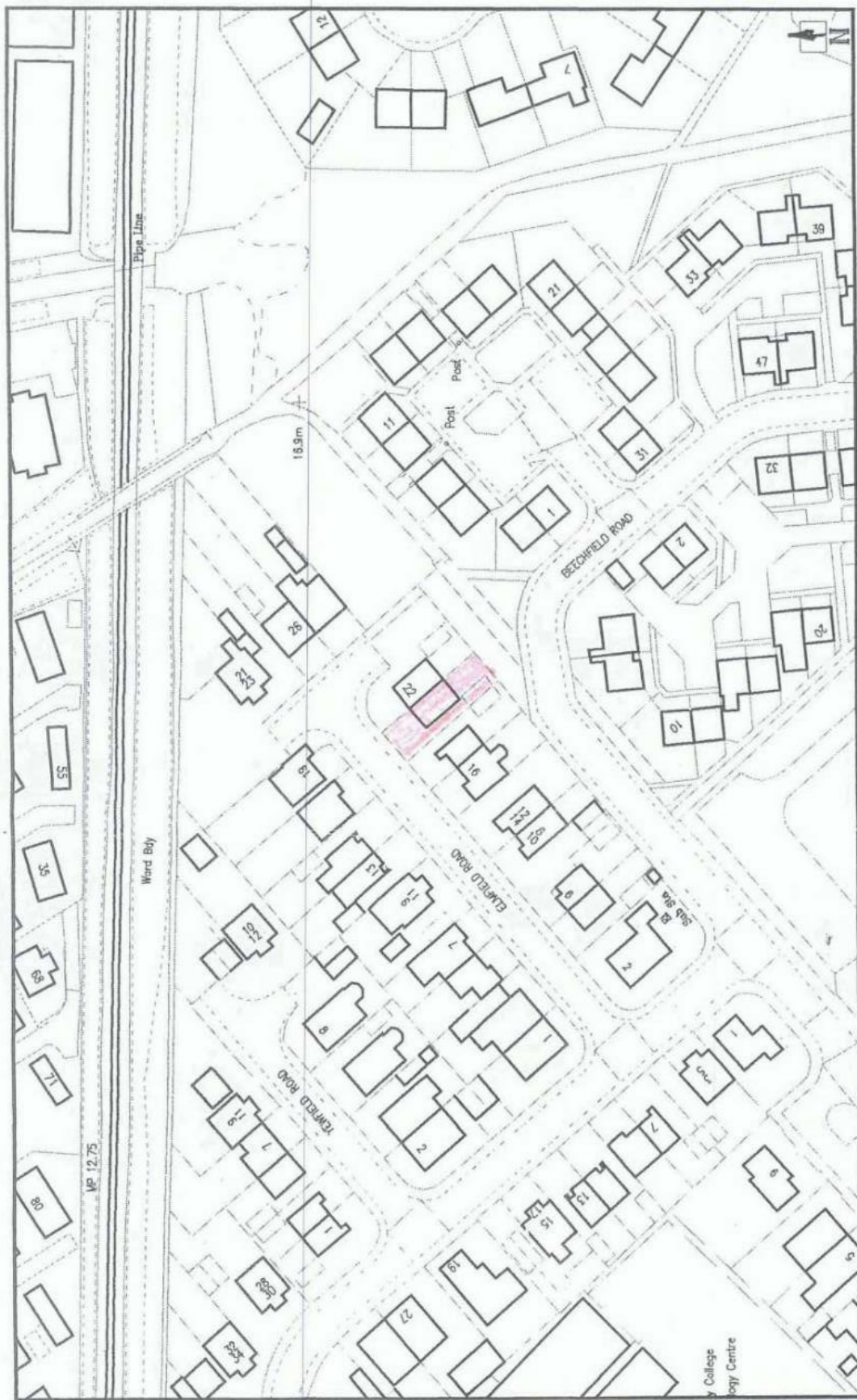


SECTION THROUGH A-A
(Scale 1:50)

PROPOSED CARPORT BALCONY
@ 20 ELMFIELD ROAD,
ELGIN, IV30 6HQ

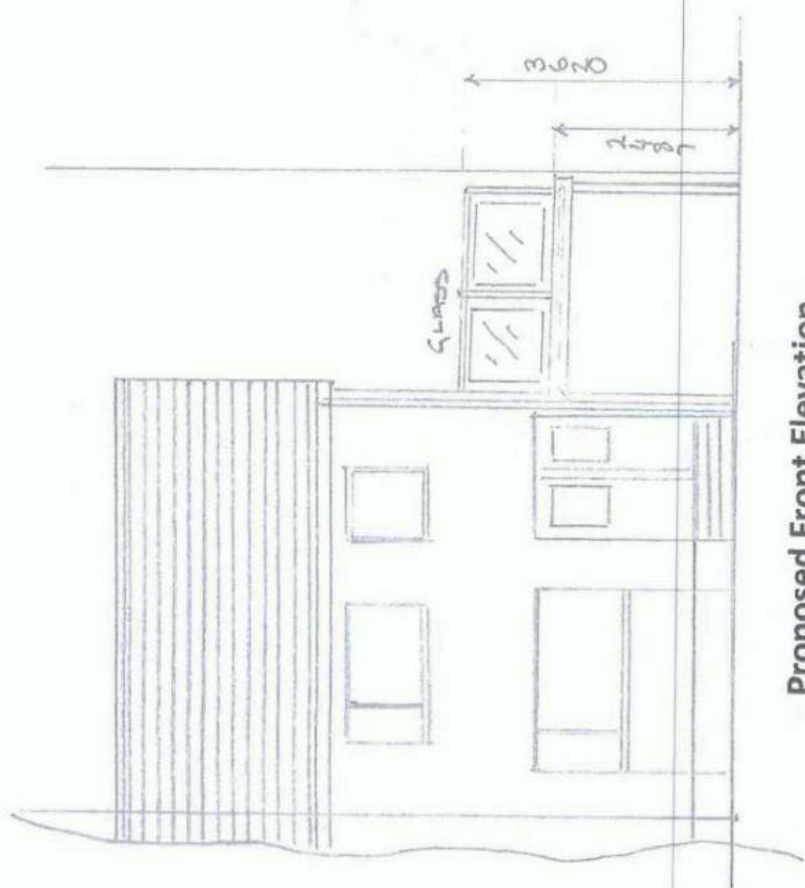
21/01153/APP

8 8 AUG 2021



LOCATION PLAN
(SCALE 1:1250)

PROPOSED CARPORT BALCONY
@ 20 ELMFIELD ROAD,
ELGIN, IV30 6HQ.
21/01153/APP 06 AUG 2021



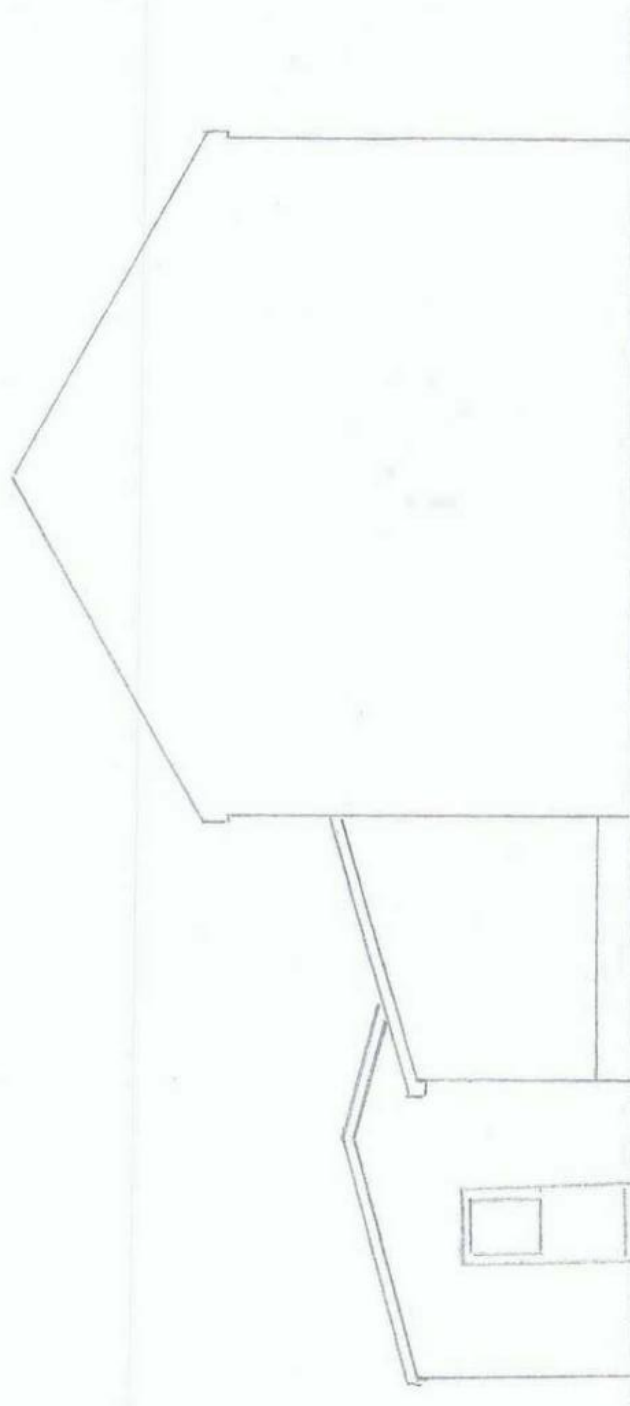
Proposed Front Elevation
(Scale 1:100)



Proposed Rear Elevation
(Scale 1:100)



Proposed Side Elevation
(Scale 1:100)

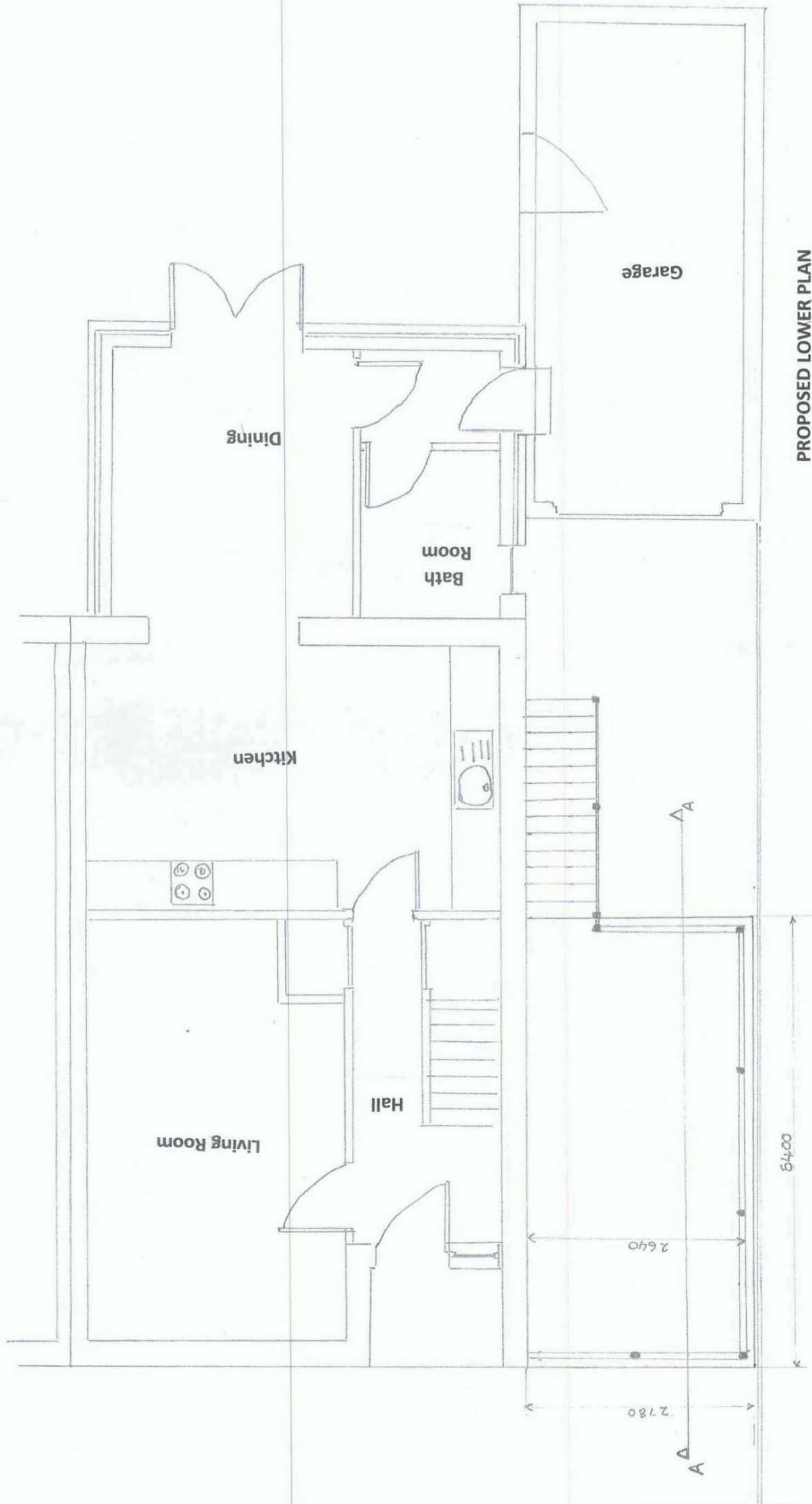


Proposed Side Elevation
(NO CHANGE)
(Scale 1:100)

PROPOSED CARPORT BALCONY
@ 20 ELMFIELD ROAD,
ELGIN, IV30 6HQ.

21/01153/APP

6 AUG 2021



PROPOSED LOWER PLAN
(Scale 1:50)

PROPOSED CARPORT BALCONY
@ 20 ELMFIELD ROAD,
ELGIN, IV30 6HQ
21/01153 / APP 06 AUG 2021

GENERAL SPECIFICATION

FOUNDATIONS (MINIMUM CONCRETE STRENGTH 20N/mm² 1:2:4)

600 x 600mm CONCRETE PAD FOUNDATIONS

FOUNDATIONS B.S. 8004:1986

STEEL POSTS

3 No 100mm x 100mm WITH 10mm TOP PLATE (100mm x 300mm) AND BOTTOM PLATE (300mm x 300mm)

BOTH PLATES TO HAVE 4 No 14mm HOLES FOR FIXING TO FOUNDATIONS AND TIMBER ROOF JOISTS.

ROOF

FIBREGLASS WITH SLATE CHIPPINGS.

V313 22mm CHIPBOARD FLOORING, SCREWED AND GLUED.

C24 47mm x 220mm TIMBER JOISTS WITH 1 ROW OF MID FULL HIGH DWANGS AND SUPPORTED AT BOTH ENDS WITH JHA 270/47 JOIST HANGERS.

2 No C24 47mm x 220mm OVER STEEL POSTS.

1 No C24 47mm x 220mm BOLTED TO EXSISTING HOUSE EVERY 600mm.

P.V.C. FACIA TO MATCH EXSISITING HOUSE.

STAIR

TIMBER TREADS AND STRINGERS WITH BANISTER

GOING 220mm

RISE 196mm

PROPOSED CARPORT BALCONY

@20 ELMFIELD ROAD

ELGIN, IV30 6HQ

21/01153/APP

06 AUG 2021

BALCONY

FRONT ELEVATION BANISTER 42mm STAINLESS STEEL TUBING (EXTERNAL GRADE) WITH 10mm TOUGHENED GLASS AT A MINIMUM HEIGHT OF 1100mm B.S 6399 & B.S. 6180.

SIDE AND BACK ELEVATION TIMBER PANELS WITH HANDRAIL AT A MINIMUM HEIGHT OF 1100mm B.S 6399 & B.S. 6180.

RAINWATER

UPVC 110mm x 75mm GUTTER CONNECTED TO EXSISTING DOWNPIPE ON FRONT ELEVATION.

DO NOT SCALE FROM DRAWINGS; ALL SIZES TO BE CHECKED ON SITE.

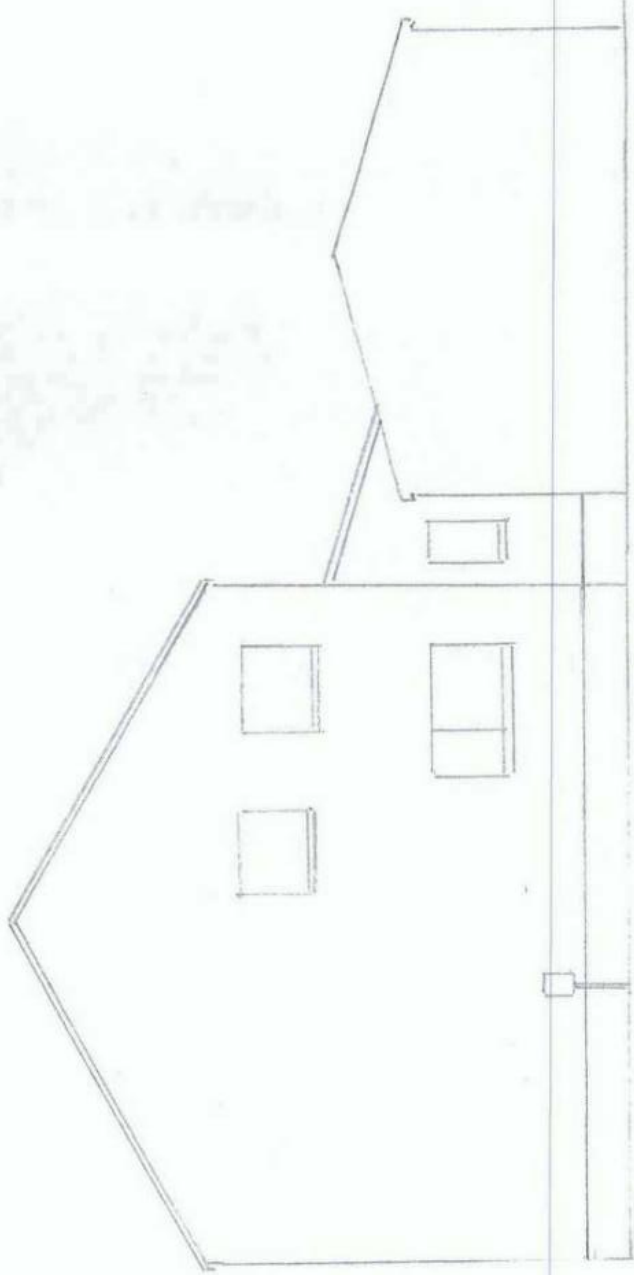
PROPOSED CARPORT BALCONY

@20 ELMFIELD ROAD

ELGIN, IV30 6HQ

21/01153/APP

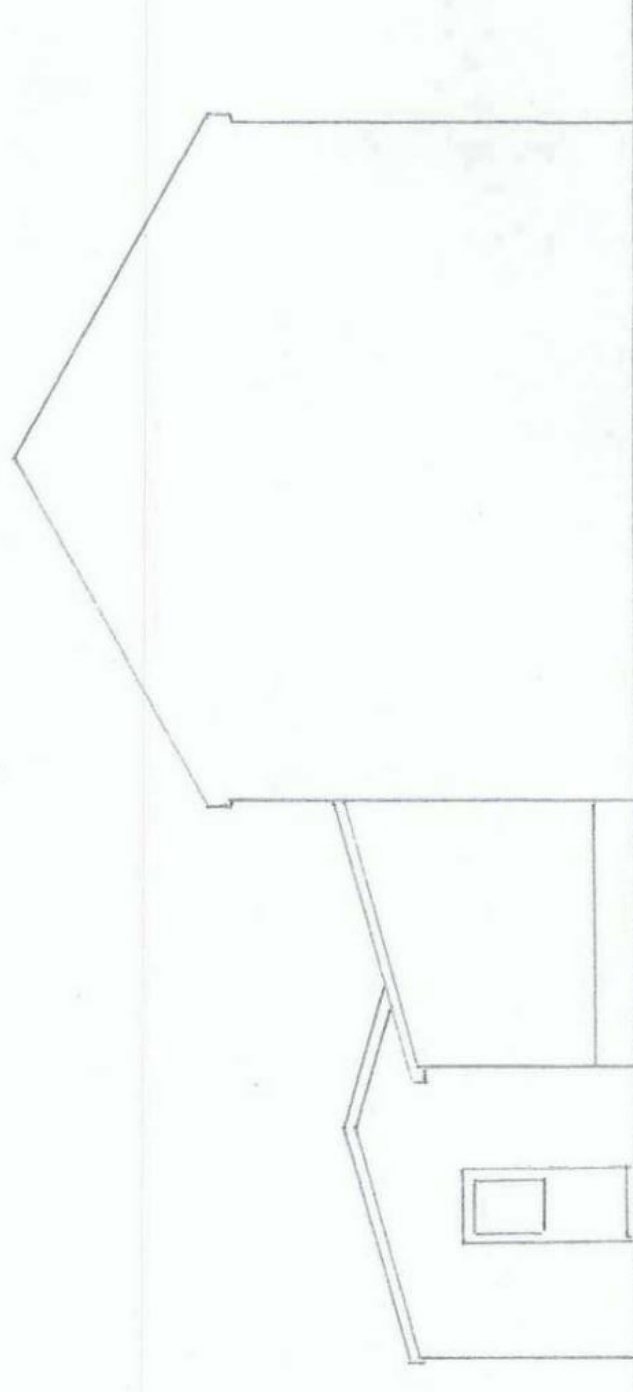
06 AUG 2021



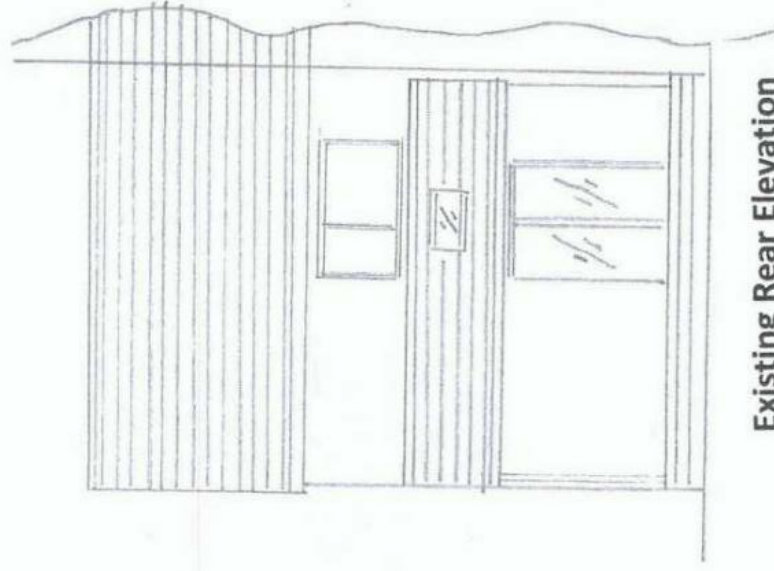
Existing Side Elevation
(Scale 1:100)



Existing Front Elevation
(Scale 1:100)



Existing Side Elevation
(Scale 1:100)



Existing Rear Elevation
(Scale 1:100)

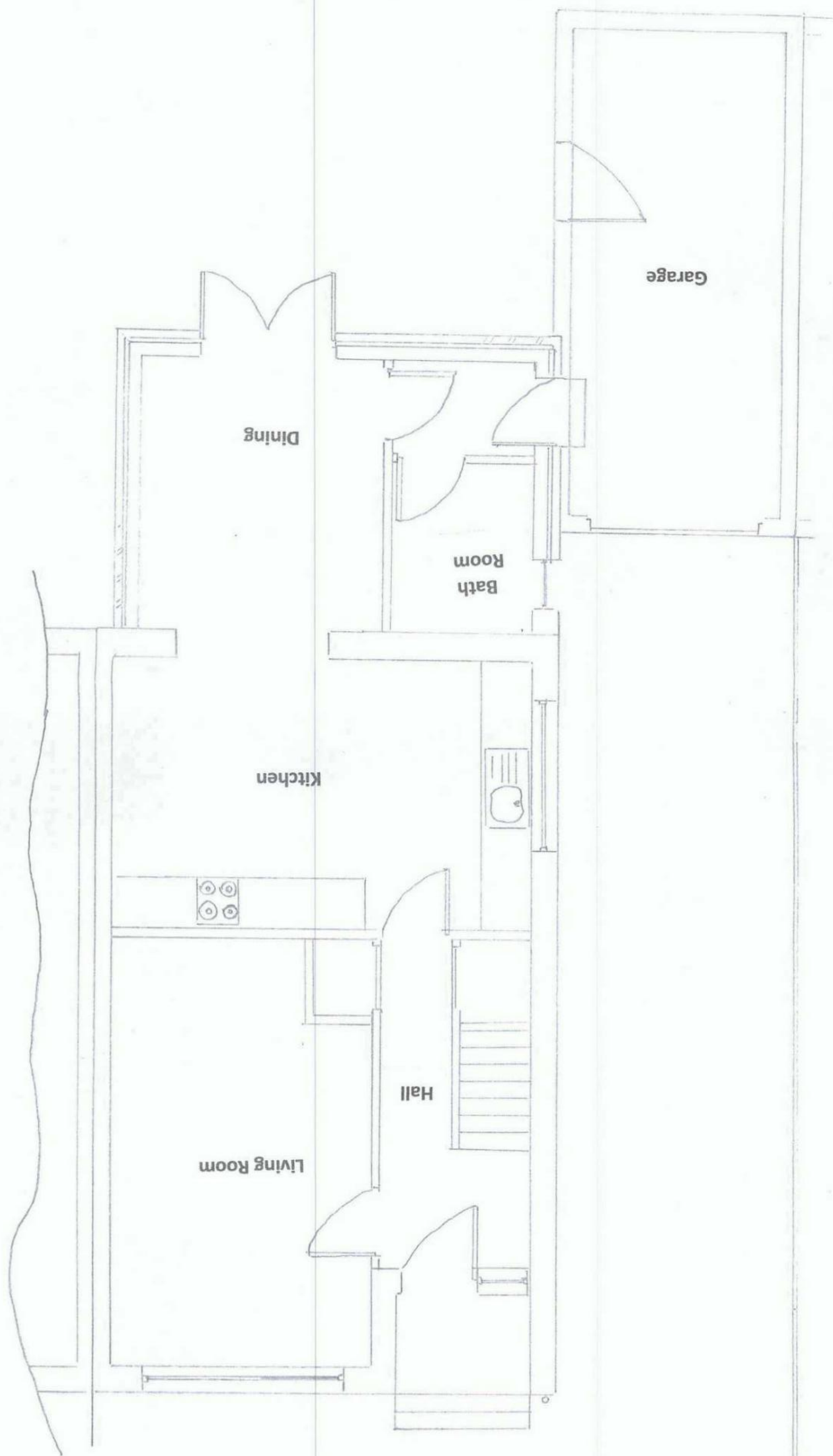
06 AUG 2021

PROPOSED CARPORT BALCONY

@ 20 ELMFIELD ROAD,

21/01153/APP

ELGIN, IV30 6HQ.



EXISTING LOWER PLAN
(Scale 1:50)

PROPOSED CARPORT BALCONY
@ 20 ELMFIELD ROAD,
ELGIN, IV30 6HQ.
21/01153 / APP

Consultee Comments for Planning Application 21/01153/APP

Application Summary

Application Number: 21/01153/APP

Address: 20 Elmfield Road Elgin Moray IV30 6HQ

Proposal: Retrospective consent to erect carport with balcony area above at

Case Officer: Fiona Olsen

Consultee Details

Name: Mr CL Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: Not Available

On Behalf Of: Contaminated Land

Comments

Approved unconditionally

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Moray Flood Risk Management

Planning Application Ref. No: 21/01153/APP

**Retrospective consent to erect carport with balcony area above at 20 Elmfield Road Elgin
Moray IV30 6HQ for Mr Donnie McLennan**

I have the following comments to make on the application:-

- | | Please |
|---|--------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | x
<input type="checkbox"/> |
| (b) I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal | <input checked="" type="checkbox"/> |
| (c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below | <input type="checkbox"/> |
| (d) Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Contact:	Javier Cruz	Date..... 12/08/2021
email address:	Javier.cruz@moray.gov.uk	Phone No
Consultee:	The Moray Council, Flood Risk Management	

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	25th August 2021
Planning Authority Reference	21/01153/APP
Nature of Proposal (Description)	Retrospective consent to erect carport with balcony area above at
Site	20 Elmfield Road Elgin Moray IV30 6HQ
Site Postcode	N/A
Site Gazetteer UPRN	000133027638
Proposal Location Easting	322782
Proposal Location Northing	862100
Area of application site (M²)	15
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=QWU8QBBGGTN00
Previous Application	18/00107/ID
Date of Consultation	11th August 2021
Is this a re-consultation of an existing application?	No
Applicant Name	Mr Donnie McLennan
Applicant Organisation Name	
Applicant Address	20 Elmfield Road Elgin Moray IV30 6HQ
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Fiona Olsen
Case Officer Phone number	01343 563189
Case Officer email address	fiona.olsen@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

If you do not respond by the response date, it will be assumed that you have no comment to make.

The statutory period allowed for a consultation response is 14 days. Due to scheduling

pressures if a definitive response is not received within 21 days this may well cause the two month determination period to be exceeded.

Data Protection - Moray Council is the data controller for this process. Information collected about you on this form will be used to process your Planning Application, and the Council has a duty to process your information fairly. Information we hold must be accurate, up to date, is kept only for as long as is necessary and is otherwise shared only where we are legally obliged to do so. You have a legal right to obtain details of the information that we hold about you.

For full terms please visit http://www.moray.gov.uk/moray_standard/page_121513.html

For full Data Protection policy, information and rights please see http://www.moray.gov.uk/moray_standard/page_119859.html

You can contact our Data Protection Officer at info@moray.gov.uk or 01343 562633 for more information.

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 21/01153/APP

**Retrospective consent to erect carport with balcony area above at 20 Elmfield Road Elgin
Moray IV30 6HQ for Mr Donnie McLennan**

I have the following comments to make on the application:-

Please

- | | | |
|-----|---|-------------------------------------|
| (a) | I OBJECT to the application for the reason(s) as stated below | <input type="checkbox"/> |
| (b) | I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal | <input checked="" type="checkbox"/> |
| (c) | I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below | <input type="checkbox"/> |
| (d) | Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Transportation has no objections to the proposed (retrospective) carport with balcony above.

Contact: AG

email address: transport.develop@moray.gov.uk


Consultee: TRANSPORTATION

Date 13 August 2021

Return response to	consultation.planning@moray.gov.uk
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Please note that information about the application including consultation responses and representations (whether in support or objection) received on the proposal will be published on the Council's website at <http://publicaccess.moray.gov.uk/eplanning/>. (You can also use this site to track progress of the application and view details of any consultation responses and representations (whether in support or objection) received on the proposal). In order to comply with the Data Protection Act, personal information including signatures, personal telephone and email details will be removed prior to publication using "redaction" software to avoid (or mask) the display of such information. Where appropriate other "sensitive" information within documents will also be removed prior to publication online.

From: Teresa Ruggeri
Sent: Fri, 27 Aug 2021 15:35:29 +0100
To: Planning-Objections
Subject: FW: Application Number 21/01153/APP


Sent: 27 August 2021 13:19

To: Teresa Ruggeri

Subject: Application Number 21/01153/APP

To whom it may concern

I have no objection to the planning application for a car port to the side of my side house at 18 Elmfield Road, Elgin.

We discussed the car port before any works started and Donnie has kept me informed throughout the process.

Once again, I do not object to this planning application
best regards



Hi

I am today in receipt of the Neighbour Notification re retrospective consent to erect car port with balcony above at 20 Elmfield Road IV30 6HQ. Ref 21/01153/APP.

Please note that my only objection to this build is if the front glass panels on the upper balcony are going to be clear glass.

I am concerned that my house will be overlooked and my privacy compromised.

All of my front windows look onto this both lower and upper floor and it is in clear view from internally from my living room, bedrooms, bathroom and landing.

I would not object if the glass was to be fully obscured.

Regards



REPORT OF HANDLING

Ref No:	21/01153/APP	Officer:	Fiona Olsen
Proposal Description/ Address	Retrospective consent to erect carport with balcony area above at 20 Elmfield Road Elgin Moray IV30 6HQ		
Date:	01.10.2021	Typist Initials:	LMC

RECOMMENDATION

Approve, without or with condition(s) listed below	N
Refuse, subject to reason(s) listed below	Y
Legal Agreement required e.g. S,75	N
Notification to Scottish Ministers/Historic Scotland	N
Hearing requirements	Departure N
	Pre-determination N

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Moray Flood Risk Management	12/08/21	No Objections
Contaminated Land	13/08/21	No Objections
Transportation Manager	13/08/21	No Objections

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
DP1 Development Principles	Y	
EP12 Management and Enhancement Water	N	Complies
EP14 Pollution Contamination Hazards	N	Complies

REPRESENTATIONS

Representations Received	YES	
Total number of representations received: TWO		
Names/Addresses of parties submitting representations		
Name and address details of parties submitting representations withheld in accordance with the General Data Protection Regulations.		
Summary and Assessment of main issues raised by representations		
Issue: Concern regarding overlooking and loss of privacy and request that balustrade be fitted with obscure glass.		
Comments (PO): The proposed balcony above the carport is deemed to give rise to an unacceptable loss of privacy and overlooking to the neighbouring property to the south-west and for		

this reason will be refused. The applicant has indicated that if permission is granted, obscure glazing will be fitted to the front.

Issue: Comments received in support of the application

Comments (PO): These are noted.

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

Proposal

The application seeks retrospective planning permission to erect a car port with a balcony area above to the side of an existing dwellinghouse.

The car port measures approx. 2.8m wide x 5.4m long and measures approx. 2.5m from ground level and is supported by steel posts.

A timber staircase to the rear provides access to the balcony area above the car port which is currently enclosed by a timber balustrade on three sides however is proposed to be fitted with a glass panel on the front elevation.

Site

The existing property is a two storey semi-detached dwellinghouse located at 20 Elmfield Road.

There are existing neighbouring properties to the north-east (attached) and south-west. The site is bound by the public road to the north-west and by a public footpath to the south-east.

Policy Assessment

Siting and Design (MLDP 2020 Policy DP1)

Policy DP1 requires that the scale, density and character of all development be appropriate to the surrounding area, be integrated into the surrounding landscape and not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

Whilst the carport alone is acceptable and does not give rise to any loss of amenity, the proposed balcony would give rise to an unacceptable loss of privacy and overlooking to the neighbouring property to the south-west of the site.

There are existing openings on the side elevation (within both ground and first floors) of the main (parent) property. The existing ground floor openings on this elevation serve a bathroom and a kitchen only and face onto the applicant's existing driveway and the neighbouring property driveway to the south-west. The first floor openings again face onto the applicant's existing driveway and beyond the neighbouring property to the south-west (which also contains ground and upper floor windows facing onto the application site). Therefore although there is a degree of mutual overlooking with regard to existing gable openings within the two properties, the installation of a balcony, above the carport would introduce a level of activity which is not currently present as it allows 'sitting out' and provides a direct view into the rear garden of the neighbouring property which is currently largely private and prior to the installation and use of the balcony, not overlooked. This is considered unacceptable. The balcony also brings this new level of activity right up the mutual boundary with the neighbouring property to the south-west. The proposed balcony would therefore give rise to unacceptable loss of amenity to the neighbouring property to the south-west and is unacceptable in

terms of policy DP1.

A timber balustrade has been installed on all three sides of the balcony which is approx. 1.5m high. This is proposed to be fitted with a glass panel on the front elevation but at present this covered by boarding which the applicant advises is temporary. Although a 1.5m screen would help to screen any view into the neighbouring property garden does not fully mitigate any potential loss of privacy or overlooking particularly when in a standing position in the balcony. The applicant has requested that the application be determined as it currently stands and therefore although there may be scope for the balcony to be fitted with higher, fully opaque screening, that is not part of the current application.

The balcony above the carport would also be out of keeping with the scale and character of the existing modest semi-detached dwellinghouse and surrounding streetscape. It is visible from street level and would dominate the side elevation of the existing property in a manner which is overbearing on both the existing main parent property and the character of the surrounding area. It is an unusual feature for this built-up residential area and although there are number of flat roof structures nearby which would allow the carport to integrate easily, the addition of the balcony and balustrade above the carport alters the character of the site and creates a development not typically found in this setting. For these reasons the development would be unacceptable in terms of policy DP1.

Overall therefore, whilst the proposed carport is acceptable, the proposed balcony above would be unacceptable as it would give rise to an unacceptable loss of amenity to neighbours in terms of loss of privacy and overlooking. It would also be out of character with the existing site and surrounding area and for these reasons the proposal is contrary to the requirements of policy DP1 and will be refused.

The carport and balcony have been finished in painted timber, with a 1.5m high timber balustrade on all three sides and a 1.5m glass panel is proposed to be installed on the front elevation. While, there may be scope to install a higher balustrade or opaque screening in order to mitigate any potential overlooking or loss of privacy to neighbours, the installation of a higher panel would likely be visually unacceptable and would likely not integrate with the character and scale of the site and surrounding area. Therefore, although the material finishes of the carport and balcony are acceptable and would accord with the main property and surrounding area, these would not outweigh the aforementioned objections and the application will be refused.

Drainage (DP1, EP12)

The site is not located within any area identified to be at risk of flooding. As the development is under 25sqm there is no requirement for a formal drainage statement to be submitted. The applicant has confirmed that any additional surface water will be directed to the existing Scottish Water network. The proposal would therefore comply with the drainage requirements of policies DP1 and EP12.

Building Standards

An informal consultation with Building Standards has confirmed that a Building Warrant would be required for the development and that it is likely that significant changes would be required to achieve a building warrant. Fire protection to the structure would be required and the materials forming the floor would need to be changed to those with a non-combustible classification. Some of the materials used for the screening are also likely to have to be changed to non-combustible material as they are within 1m of the boundary.

The Principal Building Standards Surveyor has also advised the applicant that the balcony should not be used in the meantime.

The applicant is aware of the advice from Building Standards but has asked that the planning application be determined as it stands.

Recommendation

Whilst the proposed carport is acceptable, the proposed balcony above would be unacceptable as it would give rise to an unacceptable loss of amenity to neighbours in terms of loss of privacy and overlooking. It would also be out of character with the existing site and surrounding area and for these reasons the proposal is contrary to the requirements of policy DP1 and the application will be refused.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY

Reference No.	Description			
N/A				
	Decision		Date Of Decision	

ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	Departure from development plan	09/09/21	
PINS	Departure from development plan	09/09/21	

DEVELOPER CONTRIBUTIONS (PGU)

Status	N/A
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DOCUMENTS, ASSESSMENTS etc. *

** Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc*

Supporting information submitted with application?		NO
Summary of main issues raised in each statement/assessment/report		
Document Name:		
Main Issues:		

S.75 AGREEMENT

Application subject to S.75 Agreement		NO
Summary of terms of agreement:		
Location where terms or summary of terms can be inspected:		

DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)			
Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
Summary of Direction(s)			



**MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

REFUSAL OF PLANNING PERMISSION

**[Elgin City South]
Application for Planning Permission**

TO



With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

Retrospective consent to erect carport with balcony area above at 20 Elmfield Road Elgin Moray IV30 6HQ

and for the reason(s) set out in the attached schedule.

Date of Notice: **1 October 2021**



HEAD OF ECONOMIC GROWTH AND DEVELOPMENT

Economy, Environment and Finance
Moray Council
Council Office
High Street
ELGIN
Moray
IV30 1BX

IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

By this Notice, Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

The proposed carport and balcony are contrary to Moray Local Development Plan 2020 policy DP1 for the following reasons:-

1. The balcony would give rise to any unacceptable loss of privacy and overlooking to the neighbouring property to the south-west of the site.
2. The balcony would be out of keeping with the scale and character of the existing dwellinghouse and surrounding area.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
		Block plan
		Balcony details
		Floor plan and Section AA
		Location plan
		Proposed elevations
		Proposed lower plan
		Specification

NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scotland.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably

beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



APPENDIX 2

NOTICE OF REVIEW, GROUNDS FOR REVIEW & SUPPORTING DOCUMENTS



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 0300 1234561 Email: development.control@moray.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100512445-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☒ Applicant ☐ Agent

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Donnie"/>	Building Number:	<input type="text" value="20"/>
Last Name: *	<input type="text" value="McLennan"/>	Address 1 (Street): *	<input type="text" value="ELMFIELD ROAD"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: *	<input type="text" value="ELGIN"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="SCOTLAND"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="IV30 6HQ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

Site Address Details

Planning Authority:

Moray Council

Full postal address of the site (including postcode where available):

Address 1:

20 ELMFIELD ROAD

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ELGIN

Post Code:

IV30 6HQ

Please identify/describe the location of the site or sites

Northing

862100

Easting

322782

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

CARPORT WITH BALCONY AT 20 ELMFIELD ROAD, IV306HQ

Type of Application

What type of application did you submit to the planning authority? *



Application for planning permission (including householder application but excluding application to work minerals).



Application for planning permission in principle.



Further application.



Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please see Supporting Document

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Letter of appeal

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

21/01153/APP

What date was the application submitted to the planning authority? *

26/07/2021

What date was the decision issued by the planning authority? *

01/10/2021

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☐ Yes ☐ No ☒ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Donnie McLennan

Declaration Date: 14/12/2021

My application has been refused for the following reasons:

- 1. The balcony would give rise to any unacceptable loss of privacy and overlooking to the neighbouring property to the south-west of the site.**
- 2. The balcony would be out of keeping with the scale and character of the existing dwellinghouse and surrounding area.**

I would like you to reconsider my application for the following reasons which have previously been raised with the Planning Officers.

Point 1:

With regards to privacy, the neighbouring properties will not lose any privacy when the balcony is in use. It has been positioned to the front of my property away from the neighbours kitchen and landing (gable end) windows and at a height which is neither at ground or first floor level. All neighbouring windows/door areas and gardens are visible from my house/garden and drive at the moment; therefore I gain no vantage by being on the balcony. The balcony panels act as a privacy screen for both parties.

Can I draw your attention to the property at 53 Ashfield Drive which has recently been granted permission to turn a bungalow into a 2 storey dwelling complete with carport. This property now has 2 dormer windows overlooking the neighbouring property. I see from the public consultation that despite an objection regarding this matter, full planning permission was granted.

Point 2:

I will again draw your attention to 53 Ashfield Drive where this property now completely overbears the site and is not in keeping with the rest of the street, which are all bungalows.

19 Ashfield Drive, a Moray Council gap site, which was formally a childrens playground, has also recently been granted permission for a modern dwellinghouse which is in no way in keeping with the surrounding area.

On my street, numerous properties have been granted permission to erect 2 storey gable end extensions which have filled their sites therefore could be deemed overbearing. All upper floor windows face into neighbouring properties.

During a site visit, the Planning Officer informed me that permission for the balcony would unlikely be granted as it is not in keeping with the local area, but was surprised to learn that a balcony has been erected on a property nearby which overlooks neighbouring properties and the Cemetery.

She also informed me that the carport is permissible, therefore I struggle to understand why when I add the balcony it is deemed as overbearing considering up until a few years ago there was around a dozen 20ft Leylandii separating the properties.

The balcony area is only for occasional use in the summer months and is completely removeable for the winter.